

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Scott Lawrence Simmons,

Case No. 21-CV-0695 (ECT/KMM)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Clerk of Appellate Courts and Dakota
County District Court,

Defendants.

Plaintiff Scott Lawrence Simmons previously brought an action in this District against the Clerk of Appellate Courts and the Dakota County District Court alleging only the words “obstruction of justice,” over and over. *See Simmons v. Clerk of Appellate Courts*, No. 20-CV-2646 (ADM/LIB) (D. Minn.). That action was dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) prior to service for failure to state a claim on which relief could be granted. Mr. Simmons now returns to federal court with a substantively identical pleading brought against the same defendants.

The result in this matter should be the same. Mr. Simmons has again applied for *in forma pauperis* (“IFP”) status, thereby making this case amenable to preservice review pursuant to § 1915(e)(2)(B). Once again, Mr. Simmons has included no substantive allegations whatsoever in his pleading other than the repeated words “obstruction of justice.” Compl. at 3, 4, 8-11 [ECF No. 1]. Rule 8(a)(2) of the Federal Rules of Civil Procedure requires only “a short and plain statement of the claim showing that the

pleader is entitled to relief,” but the allegations in Mr. Simmons’s pleading are far too minimal to put either the defendants or the Court on notice of the specific claims being raised in this litigation. At the most basic level, there is no way of knowing from the pleading *why* Mr. Simmons believes either of the defendants obstructed justice or otherwise acted unlawfully.

Accordingly, it is therefore recommended that this matter, like the previous matter, be dismissed without prejudice pursuant to § 1915(e)(2)(B) and that Mr. Simmons’s IFP application be denied. One additional matter merits further comment: Although all litigants have the right of access to the courts, that right does not extend to the filing of frivolous or needlessly duplicative litigation. *See In re Tyler*, 839 F.2d 1290, 1293 (8th Cir. 1988) (citations omitted). Mr. Simmons is warned that the repeated filing of pleadings bearing little to no substantive information may result in restrictions being imposed upon his ability to proceed without either assistance of counsel or advance permission of an officer of this Court.

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED THAT:

1. This matter be DISMISSED WITHOUT PREJUDICE pursuant to 28 U.S.C. § 1915(e)(2)(B).
2. The application to proceed *in forma pauperis* of plaintiff Scott Lawrence Simmons [ECF No. 2] be DENIED.

Date: March 22, 2021

s/ Katherine Menendez
Katherine Menendez
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).